

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Pal Songe et al.	§	Examiner: Monshipouri, Maryam
	§	
Serial No.: 10/562,694	§	Group Art Unit. 1656
	§	
Filed: 03/10/2006	§	Confirmation No.: 3764
	§	
For: Magnetic polymer particles	§	Docket No.: IVGN 822

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop *Amendment*
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed April 10, 2008, Applicants timely file the response with the following amendments and remarks. Applicants respectfully request for a five (5) month extension of time under C.F.R §1.136(a), thereby extending the due date for response to October 10, 2008. In association therewith, Applicants hereby authorize the Commissioner to charge Deposit Account No. 50-3994 the fee set forth under 37 C.F.R. § 1.17(a)(2). Applicants do not believe that any additional fees are due in connection with this Response. However, in the unlikely event that any such fees are due, the Commissioner is hereby authorized to charge the same to Deposit Account No. 50-3994, with reference to our matter IVGN 822.

Remarks beginning on page 2 of this paper.

REMARKS

Claims 1-26 are subjected to restriction and/or election requirement.

The Examiners requires election of an invention or group within each of the is identified below:

- I. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Ni and a process of making and using said product.
- II. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Fe and a process of making and using said product.
- III. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Ga and a process of making and using said product.
- IV. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Mn and a process of making and using said product.
- V. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Co and a process of making and using said product.
- VI. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Cu and a process of making and using said product.
- VII. Claims 1-25, drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Zn and a process of making and using said product.
- VIII. (a-g) Claims 26, drawn to 7 patentable distinct methods of use of each of the inventions listed as Group 1-VII

In response to the Restriction Requirement, Applicants elect Group V, claims 1-25 drawn to a conjugate comprising a magnetic polymer bound to carboxymethylated aspartate ligand chelating Co and a process of making and using said product, with traverse. Applicants expressly reserve the right to file divisional applications or other appropriate measures deemed necessary to protect the inventions in the remaining unelected groups.

The Examiner further requests an election of species (chemical structure). Applicants elect a conjugate having a 3 to 20 atom linker comprising NH-alkylene, with traverse.

The present traversal should not be construed as an admission that elected inventions or species are not patentably distinct. This species election is also made with the understanding that, upon allowance of a generic claim, Applicants will be entitled to the consideration of additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 C.F.R. §1.141.

Reasons for traversal

Applicants request that the group election requirement between Groups I and VII, i.e. metal ions Ni, Fe, Ga, Mn, Co, Cu and Zn, be reconsidered and withdrawn because prior-art

searching for the various chelating divalent cations in the ligand would grossly overlap. These metal ions have a commonality in function in that, each of the metals Ni, Fe, Ga, Mn, Co, Cu and Zn would interact with the carboxymethylated aspartate chelating ligand in a similar manner leaving 2 coordination sites free for interaction with the proteins. In another functional context, like immobilized metal ion affinity chromatography (IMAC), the only differences between each of these metals would be their constant of dissociation (K_d) while interacting with the amino acids in the protein, or with the PO^+ group of phosphorylated proteins. In other words, the search results for each ion would essentially raise the same issues of patentability. With respect to the species election requirement, even though the linkers have distinct chemical structures, they too have a commonality in function in that they are all electrophiles. Again, this would raise the same issues of patentability. Therefore, Applicants request that this species election requirement be reconsidered and withdrawn.

Applicants believe that the most efficient way to examine this application would be to combine the searches of Groups I to VII, and to combine the species searches of the different chemical structures, which incidentally, do not fall under a different classes/ subclasses for searching.

For the reasons set forth above, it is submitted that the restriction is improper and should be withdrawn.

CONCLUSION

Applicant believes that a full and complete reply has been made to the outstanding Restriction Requirement. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

Date: October 9, 2008

/Daphne Reddy/

Daphne Reddy,

Reg. No. 53,507

Invitrogen Corporation

Customer No. 52059

(760) 268-8397